

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 3:12cv93  
(Judge Groh)**

**DANIEL A. STONE,**

**Respondent.**

**PETITION TO ENFORCE  
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, on behalf of its client agency, the Internal Revenue Service (“IRS”), by Rita R. Valdrini, Assistant United States Attorney for the Northern District of West Virginia, respectfully states as follows:

1. This is a proceeding brought pursuant to the provisions of Sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a) to judicially enforce an IRS summons.

2. Mrs. D. Howard is a duly commissioned Revenue Officer, employed in the Small Business/Self-Employed Division Central Compliance Area, IRS, and is authorized to issue an IRS summons pursuant to the authority contained in Section 7602 of Title 26 of the United States Code and Treasury Regulation Section 301.7602-1, 26 C.F.R. § 301.7602-1.

3. The Respondent, Daniel A. Stone, is located at 135 Sundown Road, Harpers Ferry, Jefferson County, West Virginia 25425, within the jurisdiction of this Court.

4. Revenue Officer Howard is conducting an investigation into the income tax liability for the Respondent for the calendar years 2004, 2005, 2006, 2007, 2008, 2009, and 2010 as set forth in the Declaration of Revenue Officer Howard, attached hereto as **Exhibit 1**.

5. The Respondent is in possession and control of testimony, books, records, papers, and other data which are relevant to the above-described investigation.

6. On March 20, 2012, an IRS summons was issued by Revenue Officer Howard, directing the Respondent to appear before Revenue Officer Howard on May 1, 2012, at 9:30 a.m. at 55 Meridian Parkway, Suite 107, Martinsburg, WV, 25404 to testify and to produce the books, records, and other documents demanded in the summons. A copy of the summons was served on the Respondent by Revenue Officer Howard on March 21, 2012, by handing an attested copy to Donna Stone, Respondent's wife, at their last and usual place of abode. The summons and certificate of service are attached hereto and incorporated herein as **Exhibit 1, Attachment A**.

7. On May 1, 2012, the Respondent did not appear in response to the summons.

8. Respondent was sent a letter, dated June 22, 2012, from Robert D. Kaiser, Associate Area Counsel, IRS Office of Division Counsel, with instructions to appear before Revenue Officer Howard at 10:00 a.m. on July 13, 2012. Letter dated June 22, 2012 is attached hereto as **Exhibit 1, Attachment B**. Respondent did not appear, however.

9. Respondent's refusal to comply with the summons continues to date as set forth in the Declaration of Revenue Officer Howard, attached hereto as **Exhibit 1**.

10. In order to make a *prima facie* showing that a summons issued by the IRS is valid, the United States need only show: (a) that the examination to which the summons relates is being conducted pursuant to a legitimate purpose; (b) that the summons seeks information that may be

relevant to that purpose; (c) that the IRS is not already in possession of that information and (d) that the administrative steps required by the Internal Revenue Code have been followed. U.S. v. Powell, 379 U.S. 48, 57-58 (1964).

11. The books, papers, records, or other data sought by the summons are not already in the possession of the IRS.

12. All administrative steps required by the Internal Revenue Code for the issuance of the summons have been taken.

13. As of the date Revenue Officer Howard signed the attached Declaration, there has been no criminal Department of Justice referral, as defined by 26 U.S.C. § 7602(a), with respect to Respondent. **Exhibit 1.**

14. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly to investigate the income tax liability of the Respondent for tax years 2004, 2005, 2006, 2007, 2008, 2009, and 2010. **See Exhibit 1.**

**WHEREFORE**, Petitioner respectfully prays:

1. That the Court issue an Order directing the Respondent to show cause, if any, why Respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an Order directing the Respondent to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data, as is required and called for by the terms of the summons, before Revenue Officer Howard or any other proper officer or employee of the IRS at such time and place as may be fixed by Revenue Officer Howard or any other proper officer or

employee of the IRS.

3. That the United States recover its costs in maintaining this action.
4. That the Court grant such other and further relief as is just and proper.

Respectfully submitted,

WILLIAM J. IHLENFELD, II  
United States Attorney

By: /s/ Rita R. Valdrini  
RITA R. VALDRINI  
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**CERTIFICATE OF SERVICE**

I, Rita R. Valdrini, Assistant United States Attorney for the Northern District of West Virginia, hereby certify that I electronically filed the foregoing *PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS* with the Clerk of the Court using the CM/ECF system, and that I also mailed, by U.S. Mail, postage pre-paid, this document to the non-CM/ECF participant as follows:

Daniel A. Stone  
135 Sundown Road  
Harpers Ferry, WV 25425

on this 11<sup>th</sup> day of September, 2012.

/s/ Rita R. Valdrini  
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